

## **SURROGATE PARENTS**

HFS 90.13 describes the procedures under state law for the determination of the need for a surrogate parent and the appointment of a surrogate parent. The county agency carries full responsibility for recruiting and assigning surrogate parents.

A surrogate parent has the rights of a natural parent and is responsible for representing the child in all matters relating to the implementation of the early intervention program for the child, including: evaluation; assessment; and the development and implementation of the child's IFSPs including annual evaluation and periodic reviews. The surrogate parent may also represent the child concerning issues of confidentiality, access to records and other procedural safeguards described in HFS 90.

### **Determining the need for a surrogate parent**

According to HFS 90.13, a child requires a surrogate parent to represent him or her when:

The county administrative agency cannot identify a parent of the child (his or her parent is unknown);

The county administrative agency cannot, after reasonable efforts, discover the whereabouts of the parent; or

The child is a ward of the state, county or child welfare agency.

The county administrative agency must make a reasonable effort to identify or locate a parent before appointing a surrogate. This might include searching records, sending mail to the addresses at which the parent may have lived, and making visits to those addresses.

If a child has an appointed guardian acting on his or her behalf, a surrogate parent is not needed. However, when a *public agency* is named guardian of the child, a surrogate parent is required. If someone is acting as the child's parent at the request of a natural parent, a surrogate parent is not needed. [HFS 90.02(26)]

When a child is not living with the natural parent, the county administrative agency can best determine if the child needs a surrogate parent by contacting the local department of social services to determine the status of the child. When the child is a ward of the state, parental rights have usually been terminated or there is no parent identified. In some cases, particularly when the child is in the custody of the county, the parent retains the right to make decisions concerning the early intervention services. The local social service agency will have information about any rights that the parent may retain while the child is out of their custody.

### **Appointing a surrogate parent**

Qualifications of a surrogate parent:

1. Under federal and state standards, the person selected by the county administrative agency to serve as a surrogate parent must have no conflicting interest with the interest of the child being represented and be able to impartially advocate for the child.

2. He/she cannot be an employee of a public agency involved in the care or provision of early intervention services to the child (such as a county social service worker, early intervention service provider or child welfare agency employee).
3. The surrogate parent must have the skills and knowledge (know the state and federal requirements) and know the nature of the child's disability to adequately represent the child.
4. The surrogate parent must be committed to acquaint himself or herself with the child and the child's early intervention service needs.
5. The person appointed as a surrogate parent must be at least 18 years old.
6. The person appointed must be of the same ethnic background as the child or be sensitive to the factors in the child's ethnic background that may be relevant for service provision.

It is suggested that a group that is aware of the child's needs and cultural background determine the selection of the surrogate parent. The county administrative agency must notify the surrogate parent of his or her appointment in writing. A copy of that notification should be placed in the child's early intervention record.

Who can serve as surrogate parent?

- A foster parent may be appointed as a surrogate parent. However, a child receiving foster care is not automatically in need of a surrogate parent. The county administrative agency should determine the child's legal status before proceeding with a surrogate appointment.
- The county administrative agency may also look to interested relatives and friends of the child's family to serve as a surrogate parent.
- When a person without ties to the family is appointed, the appointment should be from a list of persons previously determined as having an interest in serving as a surrogate parent and the required knowledge and training. Local planning councils and advocacy groups could be asked to recruit surrogate parent candidates.

## **Training**

The county administrative agency must assure that the surrogate parent acquires the information he or she needs to function as an effective advocate for the child. This includes information about the child and the services being provided to the child. This information could be obtained through a conference with the service coordinator and visits with the child in a variety of settings. The surrogate parents should also receive information about children with disabilities and developmental delays, the early intervention system and the procedural safeguards.